



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2018-0852; FRL-9991-55-Region 7]

**Air Plan Approval and Approval of Operating Permits Program;
Nebraska; Adoption of the 2015 Ozone Standard and Revisions to
Definitions**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the State Implementation Plan (SIP), and Operating Permits Program for the State of Nebraska as submitted on August 22, 2018. This action adopts the 2015 primary and secondary National Ambient Air Quality Standards for Ozone, published in the **Federal Register** on October 26, 2015. The EPA is also taking final action to approve revisions which are administrative in nature. These revisions include updating a reference to EPA's regulation used in the definition of "Global Warming Potentials", removing "Greenhouse Gases" from the definition of "Regulated Air Pollutant", and updating a reference to EPA's regulations used in the definition of "Volatile Organic Compound". Other typographical and reformatting revisions are also being made. Approval of these revisions will not impact air quality, ensures consistency

between the State and Federally-approved rules, and ensures Federal enforceability of the State's rules.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2018-0852. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7391; email address crable.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

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I. What is Being Addressed in this Document?

The EPA is approving revisions to the State Implementation Plan (SIP) and the Operating Permit Program submitted on August 22, 2018, by the State of Nebraska. Nebraska's August 22, 2018, submittal included revisions to chapters 1, 4, 20, 28 and 34 of title 129. In this action, EPA is only addressing revisions to title 129 of the Nebraska Administrative Code, chapter 1 "Definitions"; chapter 4 "Ambient Air Quality Standards"; chapter 20 "Particulate Emissions; Limitations and Standards"; and chapter 34 "Emission Sources; Testing; Monitoring". The EPA is not acting on chapter 28 "Hazardous Air Pollutant; Emissions and Standards", although included in the state's submission, because the chapter is not approved in the Nebraska SIP.

The EPA is approving revisions to the Nebraska SIP and Operating Permits Program for title 129, chapter 1 "Definitions". The revision to title 129, chapter 1, section 064, updates the reference for "Table A-1 - Global Warming Potentials", and the effective date of the reference. The revision to section 109 of chapter 1 corrects a typographical

error clarifying the meaning of "person", ensuring consistency with the Federal definition. Nebraska Department of Environmental Quality (NDEQ) removed section 130.05, "Greenhouse gases" and section 130.05A from the definition of "Regulated Air Pollutant", as a result of the Supreme Court's invalidation of portions of the Greenhouse Gas Tailoring Rule. Finally, the revision to chapter 1, section 160, "Volatile Organic Compounds", updates the reference to the appropriate sections of the Federal regulation pertaining to these rules and the effective date of the reference.

The following are approved revisions to the Nebraska SIP. Title 129, chapter 4, section 005, is revised by adopting the 2015 primary and secondary National Ambient Air Quality Standards for Ozone, (80 FR 65292, October 26, 2015), and by revising the reference to include appendix U to 40 CFR part 50 to be consistent with Federal regulations, and by updating the effective date of the reference.

Revisions to chapter 20, of title 129, correcting references to and re-numbering tables 20-1 and 20-2 by moving the tables under the correct sections of the chapter for consistency are approved. Also being approved is text presently found in section 007 moving to section 001 and renumbered as new subsection 001.01. Section 007 will be marked "Reserved".

Finally, EPA is approving revisions to chapter 34, of title 129, by correcting the typographical error in section 002.02 in the effective date of 40 CFR part 60 appendices. This revision clarifies the effective date by replacing the date July 12, 2002 with July 1, 2002.

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The revised chapters were placed on public notice on May 1, 2017, and a public hearing was held by the State of Nebraska on June 13, 2017, where no comments were received. In addition, as explained above, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. EPA's Response to Comments.

The public comment period on EPA's proposed rule opened February 20, 2019, the date of its publication in the **Federal Register** (84 FR 5032), and closed on March 22, 2019. During this period, EPA received one comment. After reviewing the comment, the EPA determined that the comment is outside the scope of our proposed rule and fails to identify any material issue necessitating a response. Accordingly, the EPA will not provide

a specific response to the comment. We note that the public comment received on this rulemaking action is available for review by the public and may be viewed by following the instructions for access to docket materials as outlined in the **ADDRESSES** section of this preamble.

IV. What Action is EPA Taking?

The EPA is approving into the Nebraska SIP and as applicable, into the Operating Permits Program, revisions to title 129, chapters 1, 4, 20 and 34 as submitted by NDEQ on August 22, 2018.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is incorporating by reference the Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final

rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Air pollution control, Incorporation by reference, Administrative practice and procedure, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA is amending 40 CFR parts 52 and 70 as set forth below:

Part 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart-CC Nebraska

2. In §52.1420, paragraph (c), the table is amended by revising entries "129-1 Definitions", "129-4 Ambient Air Quality Standards", "129-20 Particulate Emissions; Limitations and Standards", and "129-34 Emission Sources; Testing; Monitoring" to read as follows:

§52.1420 Identification of Plan.

* * * * *

(c) * * *

EPA-Approved Nebraska Regulations

Nebraska citation	Title	State effective date	EPA Approval date	Explanation
State of Nebraska				
Department of Environmental Quality				
Title 129-Nebraska Air Quality Regulations				
129-1	Definitions	7/15/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation].	The definition of "solid waste" is not approved into the SIP. The second sentence beginning at "Solid waste" and ending at "discarded material", is not approved into the SIP.
* * * * *				
129-4	Ambient Air	7/15/2018	[Insert date of	

Nebraska citation	Title	State effective date	EPA Approval date	Explanation
	Quality Standards		publication in the Federal Register], [Insert Federal Register citation].	
* * * * *				
129-20	Particulate Emissions: Limitations and Standards	7/15/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation].	
* * * * *				
129-34	Emission Sources; Testing; Monitoring	7/15/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation].	
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Part 70 -- STATE OPERATING PERMIT PROGRAMS

3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Amend appendix A to part 70 by adding paragraph (p) under "Nebraska; City of Omaha; Lincoln-Lancaster County Health Department" to read as follows:

Appendix A to Part 70 Approval Status of State and Local Operating Permits Programs

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health

Department

* * * * *

(p) The Nebraska Department of Environmental Quality submitted revisions to The Nebraska Administrative Code, title 129, chapter 1, "Definitions" on August 22, 2018. The state effective date is July 15, 2018. This revision is effective **[Insert date 30 days after date of publication in the Federal Register]**.

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[FR Doc. 2019-07309 Filed: 4/11/2019 8:45 am; Publication Date: 4/12/2019]